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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,601	06/27/2003	Mark Ronald Plesko	3382-64707	7614

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EXAMINER

CHAVIS, JOHN Q

ART UNIT PAPER NUMBER

2191

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,601

Applicant(s)

PLESKO ET AL.

Examiner

John Chavis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 13-15, and 19-34 is/are rejected.
- 7) ☐ Claim(s) 10-12 and 16-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/26/04</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Double Patenting

1. Claims 1-34 of this application conflict with claims 1-29 of Application No. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-34 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-29 of copending Application No. 10/607,591. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: the claims of this application and '591 are not identical; however, it is clear that they are claiming the same subject matter, for example, see claim 3 and claim 17 of '591 in reference to claim

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1 of the present application, see claim 18 in reference to claim 2 and 4 of the present application and see claim 4 in reference to claim 7 and 8 of the present application.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

10/607,591. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2-3, 6, 14-15, 27-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims contradict, for example, what the selection is based on in its respective parent claim. Therefore, it is not clear what is intended. The applicant should note that unclear features are not entitled patentable weight; since, it would not be clear how the feature further modifies its parent claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-9, and 13-15 and 19-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Ringseth et al. (6,625,804).

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Claims

1. A method of type-checking a programming language in a compiler according to one or more rule sets comprising:

selecting one or more of the rule sets based upon the present stage of compilation; and

Ringseth

see the title, abstract, col. 2 lines 13-18.

As an example of the rules, see "events" in col. 6 line 64-col. 7; line 6; since, rules are required for firing events. Also, see col. 13 lines 26-33.

type-checking the programming language based on the selected one or more rule sets.

2. The method of claim 1 wherein selecting one or more of the rule sets is based upon a characteristic of the programming language rather than the stage of compilation.

3. The method of claim 2 wherein the characteristic of the programming language describes the type system of the language.

4. The method of claim 1 wherein type-checking the programming language comprises type-checking each of a plurality of intermediate representations of the programming language.

5. The method of claim 4 wherein the selected one or more rule sets are different for each representation.

6. The method of claim 4 wherein selecting one or more of the rule sets is based upon a characteristic of the representation being type-checked rather than the stage of compilation.

7. The method of claim 1 wherein the programming language includes a type that indicates an element of the programming language can be one of a plurality of types.

8. The method of claim 7 wherein the one or more rule sets contains rules for type-checking a type that indicates an element of the programming language can be one of a plurality of types.

9. The method of claim 1 wherein the one or more rule sets comprise a

" " " "

See the rejection of claim 1.

See the rejection of claim 1.

See col. 13 lines 49-56, col. 14 lines 33-37.

See the protocol specific eventing in claim 1 in col. 28-29.

See the rejection of claim 4.

See again the protocol specific eventing of claim 1.

" " " "

See the "tree" format in col. 14 lines 3-15.

plurality of rules in a hierarchical format.

Claims 13 and 14-15 are rejected as claim 1, 4 above.

As per claims 19, 21, and 32-34 see the rejection of claim 1.

In reference to claim 20, see col. 14 lines 25-32.

The features of claims 22-23 are taught via the protocol specific class implementation and the event source class implementations in col. 14 lines 45-67.

Claims 24-31 are rejected as claim 4 above.

Allowable Subject Matter

7. Claims 10-12, 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Note also unclear issues must be resolved.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Chavis whose telephone number is (571) 272-3720. The examiner can normally be reached on M-Th, 7:30am-4:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jc

A handwritten signature in black ink, appearing to read "John Chavis", with a long horizontal flourish extending to the right.

John Chavis
Primary Examiner AU-2191